

EXHIBIT A

WIGDOR LLP

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Bryan L. Arbeit
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February 4, 2020

VIA ECF

The Honorable Kevin N. Fox
United States Magistrate Judge
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

Re: David v. The Weinstein Co. LLC, et al., No. 18-cv-05414 (RA)(KNF)

Dear Judge Fox:

We represent Plaintiff Wedil David and write in advance of the telephonic court conference scheduled for today at 5:00 p.m. On Friday, January 31, 2020, we sent the attached letter to counsel for Harvey Weinstein concerning Defendant Weinstein's failure to respond to Plaintiff's interrogatories and document requests and asked to confer with counsel prior to today's telephone conference. See Ex. A. Regrettably, we did not receive any response to our letter. As noted in the letter, Defendant Weinstein is currently under threat of sanctions in the Canosa action before Judge Engelmayer for similar discovery abuses. See Ex. B. It appears that Defendant Weinstein is refusing to cooperate in discovery in this action, even after his multiple attempts to stay this action were denied. Plaintiff accordingly requests that Your Honor order Defendant Weinstein to fully respond to Plaintiff's discovery requests without asserting objections, "all of which have been waived by his failure to respond to the plaintiff's discovery demands timely." Jobe O. v. Pataki, No. 03 Civ. 8331 (RCC)(KNF), 2007 WL 844707, at *5 (S.D.N.Y. Mar. 15, 2007).

Respectfully submitted,


Bryan L. Arbeit

cc: All Counsel of Record (*via ECF*)

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January 31, 2020

VIA EMAIL

Andrew T. Miltenberg, Esq.
Diana Warshow, Esq.
Nesenoff & Miltenberg LLP
363 Seventh Avenue, 5th Floor
New York, NY 10001

Re: David v. The Weinstein Co., LLC, et al.; No. 18-cv-05414 (RA)(KNF)

Counsel:

We write concerning Plaintiff's First Set of Document Requests and Interrogatories to Defendant Harvey Weinstein, which were served via email and U.S. mail on December 23, 2020. As you are aware, you have not responded or objected to these discovery requests, or even communicated with us about them. We are aware that Defendant Weinstein in the Canosa v. Weinstein action has failed to follow the original deadline for document discovery and two court orders setting forth deadlines to respond, and is currently ordered by the court to respond on the threat of sanctions. Please immediately provide an explanation for not responding to Plaintiff's discovery requests and a time to meet and confer on Monday. If this issue is not resolved on Monday, we intend to raise it with Magistrate Judge Fox during Tuesday's teleconference.

Sincerely,



Bryan L. Arbeit

Exhibit B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALEXANDRA CANOSA,

Plaintiff, : 18 Civ. 4115 (PAE)

-v-

ORDER

HARVEY WEINSTEIN, THE WEINSTEIN
COMPANY HOLDINGS, LLC, and THE WEINSTEIN
COMPANY, LLC,

Defendants.

X

PAUL A. ENGELMAYER, District Judge:

The Court has received plaintiff Alexandra Canosa's recent letter regarding a discovery dispute, Dkt. 211, and defendant Harvey Weinstein's response, Dkt 213. The Court resolves the dispute as follows:

1. As to the documents requested by Canosa in her July 26, 2019 requests for production, the Court's December 13, 2019 Order, Dkt. 210, addressing these documents controls. Weinstein has an obligation to produce these documents. He has now missed three deadlines to do so: (1) the original deadline for document discovery of November 6, 2019; (2) the deadline of November 27, 2019 imposed by the Court's November 14, 2019 Order, *see* Dkt. 186; and (3) the deadline of December 19, 2019 imposed by the Court's December 13, 2019 Order, *see* Dkt. 210. The Court will allow Weinstein four weeks from the date of this order to produce the documents or submit a sworn declaration—from himself or his counsel—attesting, as to particular responsive documents, that Weinstein does not have them in his possession, custody, or control, and describing, in detail, the search that was undertaken for such documents.

2. As to Weinstein's financial records, the Court's December 13, 2019 Order, Dkt. 210, also controls. The Court initially instructed Weinstein to produce these records at a sealed conference on November 6, 2019. The December 13, 2019 Order then publicly instructed Weinstein to produce the records by December 19, 2019, which he failed to do. *See* Dkt. 210. As with the records addressed above, Weinstein must produce these records within four weeks of this order, or submit a sworn declaration—from himself or his counsel—attesting, as to particular responsive documents, that Weinstein does not have them in his possession, custody, or control, and describing, in detail, the search that was undertaken for such documents.

3. The Court recognizes that Weinstein is presently standing trial in state court on criminal charges. The above discovery obligations, however, predated the onset of the trial. The Court therefore, while giving Weinstein four weeks from the date of this order to produce the records at issue, will not extend these deadlines further. Should Weinstein fail to timely produce the above documents to the extent in his possession, custody, or control, the Court will be obliged to impose sanctions for failure to comply with this order. Specifically, Weinstein will be directed to pay \$200 per business day in sanctions, payable to the registry of this Court, until compliance with this order is complete.

SO ORDERED.

Paul A. Engelmayer

PAUL A. ENGELMAYER
United States District Judge

Dated: January 15, 2020
New York, New York